

MINUTES
BOARD OF APPEALS
VILLAGE OF SEA CLIFF
VILLAGE HALL
300 SEA CLIFF AVENUE
SEA CLIFF, NEW YORK 11579

March 28, 2013

Present:	Chair	Kevin McGilloway
	Members	Dina Epstein
		Noel Griffin
		Ted Kopczynski
		Jamie Weil
	Village Attorney	Brian Stolar

The meeting was called to order at 8:00 pm.

The Board noted that the scheduled meeting of March 19, 2013 was adjourned to this meeting, that all of the hearings scheduled for March 19, 2013 were adjourned to this meeting, and that notice of the rescheduling was posted at all entrances to Village Hall at the time of the March 19, 2013 meeting.

The Board opened the public hearing on the application of Eileen and Frederick Black, 1 Orchard Lane, Sea Cliff to install an air conditioner compressor unit in a front yard, which requires a variance of Village Code §138-516. Premises are designated as Section 21, Block L, Lot 44 on the Nassau County Land and Tax Map. The Board closed the hearing, and reserved decision.

The Board opened the public hearing on the application of Lawrence Maier, 49 Adams Street, Sea Cliff to construct a shed in a front yard, 2 feet from a side property line and 4 feet from a front property line, which requires variances of Village Code §138-416, as follows: (a) the proposed shed is located in a front

yard where no accessory structure may be located, and (b) the proposed shed constitutes a second accessory structure exceeding 120 square feet (shed is 144 square feet and existing deck with pergola is 167 square feet) and having a height greater than 8 feet (shed is 14 feet in height). Premises are designated as Section 21, Block 177, Lots 431 and 472 on the Nassau County Land and Tax Map. The Board closed the hearing, and reserved decision.

The Board opened the continued public hearing on the application of Doug and Karin Barnaby, 404 Littleworth Lane, Sea Cliff, New York to subdivide a lot with an existing non-conforming use into three residential lots and a private roadway, which requires variances of the following Village Code sections: (a) 138-501 and 138-1103 to increase an existing non-conformity of a property and use, where no such increase is permitted; (b) 138-506 to permit a front property line of 92.18 feet on one lot and 25.02 feet on another lot, where the minimum required front property line is 100 feet; (c) 138-509 to permit a lot width of 92.18 feet, where a minimum required width of 100 feet is required; (d) 138-511 to permit a side yard setback of 11 feet, where a minimum of 15 feet is required; (e) 138-512 to permit a rear yard setback of 20 feet, where a minimum of 30 feet is required; (f) 138-1002 and 138-1001(A) in that the required number of off-street parking spaces are not provided; and (g) 138-1007 in that (i) the proposed subdivision exacerbates an existing non-conforming condition by creating a property line with less than the required 4 foot setback, and (ii) the driveway depicted on parcel B exceeds the minimum permitted width of 25 feet. Premises are designated as Section 21, Block L1, Lot 306 on the Nassau County Land and

Tax Map. The Board acknowledged that the environmental review process has not been completed as the applicant is going to be submitting additional documentation to the Planning Board. Mr. Weil stated that his father had made some statements at the last meeting, and that those statements reflect only Mr. Weil's father's opinions as Mr. Weil would be able to render his own unbiased decision and opinion independent of his father's statement. The Board continued the public hearing to April 16, 2013 at 8:00pm.

The Board discussed the Black application. On motion duly made by Mr. Kopczynski, seconded by Ms. Epstein, and adopted unanimously, the Board determined that the Black application is a Type II matter under SEQRA which requires no further environmental review and that the application for a variance is granted in accordance with the decision annexed hereto.

The Board discussed the request for Max Bushfrers, 7 Highland Place, for an extension of time of the variances granted previously with respect to a treehouse at his premises. Mr. Bushfrers indicated that the treehouse previously proposed had to be replaced with a State Code compliant structure. Prior to making a determination, the Board requested that Mr. Bushfrers submit the plans of the structure so that the Board may review its similarity to the structure approved by the Board.

The Board discussed the Maier application. On motion duly made by the Chair, seconded by Mr. Kopczynski, and adopted four votes in favor and Mr. Weil abstaining, the Board determined that the Maier application is a Type II matter under SEQRA which requires no further environmental review and that the

application for variances is denied in accordance with the decision annexed hereto.

The Board discussed the application of Wayne McCann, 219 Glen Cove Avenue, Sea Cliff, New York to renovate an existing building for use as an office and one dwelling unit. Only three Board members were present during the presentation of testimony at the Board's February meeting, and that the applicant's representative presented limited testimony at that meeting. The Board determined that it was necessary to receive additional information before a decision could be rendered. On motion duly made by Ms. Epstein, seconded by Mr. Kopczynski, and adopted unanimously, the Board determined to re-open the public hearing. Accordingly, the hearing will be scheduled for April 16, 2013 at 8pm.

There being no further business, the meeting was adjourned at 8:52pm.

KEVIN MCGILLOWAY, CHAIR

BLACK SHORT FORM DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on March 29, 2013, on motion of Mr. Kopczynski, seconded by Ms. Epstein, and adopted unanimously, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the consideration of this Board and discussed the subject application, rendered the following findings and determination:

1. Eileen and Frederick Black, 1 Orchard Lane, Sea Cliff to install an air conditioner compressor unit in a front yard, which requires a variance of Village Code §138-516. Premises are designated as Section 21, Block L, Lot 44 on the Nassau County Land and Tax Map.
2. The applicants are the record owners of the subject premises.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. The application was referred to the Nassau County Planning Commission in accordance with the streamlining agreement between the Village and the Planning Commission, and no response was received from the Planning Commission.
5. The premises are located on the corner of Woodridge and Orchard Lanes. The unit is proposed to be located 37 feet and 62 feet from those streets, respectively, and there are trees and hedges that will restrict the view of the unit from either street.
6. The relief requested in the application is granted provided that (a) the air conditioning condenser unit is installed in the location proposed, (b) the plantings that restrict view shall be maintained for as long as the air conditioner unit shall remain in the location proposed and shall be replaced in kind if they become dead, damaged or diseased, and (c) the work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

Kevin McGilloway, Chair

Filed in the Office of the Village Clerk
the day of April 2013

Marianne Lennon, Village Clerk

MAIER DECISION

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on March 28, 2013, on motion of the Chair, seconded by Mr. Kopczynski, and adopted unanimously, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the consideration of this Board and discussed the subject application, rendered the following determination:

1. Lawrence Maier, 49 Adams Street, Sea Cliff applied to construct a shed in a front yard, 2 feet from a side property line and 4 feet from a front property line, which requires variances of Village Code §138-416, as follows: (a) the proposed shed is located in a front yard where no accessory structure may be located, and (b) the proposed shed constitutes a second accessory structure exceeding 120 square feet (shed is 144 square feet and existing deck with pergola is 167 square feet) and having a height greater than 8 feet (shed is 14 feet in height). Premises are designated as Section 21, Block 177, Lots 431 and 472 on the Nassau County Land and Tax Map.
2. The applicant is the record owner of the subject premises.
3. The premises are located in the Residence A zoning district. The proposed shed is 14 feet in height. It will be located only 2 feet from the side property line, only 3 feet from an adjoining residence and only 4 feet from a front property line. The premises has frontage on three (3) streets and the dwelling on the premises is situated in the northerly portion of the premises. The premises is 120 feet long, and given the location of the residence, the separation from the southerly portion of the residence to the front property line on Brown Street is approximately 73-74 feet. Although there is a substantial area between the rear of the residence and the Brown Street property line, the applicant proposes to place the shed only 4 feet from Brown Street and within 3 feet of the main portion of the residence on the adjoining property.
4. The applicant did not provide any testimony at the hearing. The Board reviewed the application documents and inspected the property and the area surrounding the property.
5. The Board finds that the proximity of the proposed shed to the dwelling on the adjoining premises creates an unnecessary conflict and impact on the neighborhood and neighboring property given the availability of alternate locations on the premises for locating the shed. The Board also finds that

the size and height of the shed is excessive in relation to the property and the relationship of the premises to the neighborhood.

6. The variances sought are area variances. In determining whether to grant an area variance, the Board shall take into consideration of the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board is required to consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude the granting of the area variance. In granting a variance, the Board shall grant only the minimum variance that it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
7. For the reasons set forth herein, the Board finds and concludes that the variances should be denied. In reaching this conclusion, the Board has considered each of the relevant statutory factors.
8. With regard to whether the proposed variances would produce an undesirable change in the character of the neighborhood or a detriment to nearby properties, the evidence demonstrates that the proposed variances would create an undesirable change in the neighborhood character and a detriment to nearby properties. The shed, which is 16 feet long and 14 feet in height, will be located 2 feet from a side property line, 4 feet from a front property line and only 3 feet from a neighboring residence. The proposed location closes off open space, creates a tremendous adverse impact on the neighboring property and a potential dangerous situation. Given the proximity of the shed to the adjoining residence, the chance for a potential conflagration increases. The shed also impacts the light and air of the adjoining residence. The proposed location of the shed at a height of 14 feet is an anomaly in the neighborhood. The proposed variances are not in conformity with any portion of the neighborhood and would result in a detriment to the nearby properties.
9. The Board finds that the requested variances are substantial. In reaching this conclusion, the Board is mindful that the combined variances must be considered as they represent the full nature of the proposed changes.

Locating a 144 square foot shed in the extreme front yard, only one step from a neighboring residence is substantial.

10. The applicant failed to pursue any feasible alternative. The applicant could have proposed a smaller shed in a different location on the property that would have been compliant with, or more compliant with, the Village zoning code.
11. As to whether the proposed variances will have an adverse impact on the physical or environmental conditions in the neighborhood, the Board finds that there will be such an adverse impact. The rationale of the Village's zoning plan is to create conformance with standards relevant to the Village and the zoning districts within the Village. The proposed variances are completely at odds with those requirements.
12. As to the self-created hardship, the Board finds that the proposed variances are self-created. Notwithstanding such finding, the Board would deny the variances based on its consideration of the other factors set forth above.
13. For the foregoing reasons, the relief requested in this application is denied in its entirety.

Respectfully submitted,

Kevin McGilloway, Chairman

Filed in the Office of the Village Clerk
the day of April 2013

Marianne Lennon, Village Clerk